

Exhibit 73

To: Miyano Machinery USA Inc. (gkobayashi@masudafunai.com)
Subject: TRADEMARK APPLICATION NO. 77176918 - M MIYANO - 2260-2010
Sent: 8/27/2007 12:17:44 PM
Sent As: ECOM101@USPTO.GOV
Attachments:

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 77/176918

MARK: M MIYANO

77176918

CORRESPONDENT ADDRESS:

GEORGE H. KOBAYASHI
MASUDA, FUNAI, EIFERT & MITCHELL,
LTD.
203 N LASALLE ST STE 2500
CHICAGO, IL 60601-1262

RESPOND TO THIS ACTION:

<http://www.uspto.gov/teas/eTEASpageD.htm>

GENERAL TRADEMARK INFORMATION:

<http://www.uspto.gov/main/trademarks.htm>

APPLICANT: Miyano Machinery USA Inc.

CORRESPONDENT'S REFERENCE/DOCKET

NO:

2260-2010

CORRESPONDENT E-MAIL ADDRESS:

gkobayashi@masudafunai.com

PRIORITY ACTION

TO AVOID ABANDONMENT, THE OFFICE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF THE ISSUE/MAILING DATE.

The application will be given priority as an amended application if a response to the requirements stated below is received within two months of the issue/mailing date.

ISSUE/MAILING DATE: 8/27/2007

OFFICE SEARCH: The examining attorney has searched the Office records and has found no similar registered or pending mark which would bar registration under Trademark Act Section 2(d), 15 U.S.C. Section 1052(d). TMEP section 704.02.

The following issues were discussed in communication with Mr. George Kobayashi on 27 August 2007.

Unclear Specimen

The specimen is not acceptable because the digitized image of the photograph submitted does not clearly show the applied-for mark in use in commerce for the identified goods and/or services. An application based on Section 1(a) of the Trademark Act must include a specimen showing the applied-for mark in use in commerce for each class of goods and/or services. Trademark Act Sections 1 and 45, 15 U.S.C. §§1051 and 1127; 37 C.F.R. §§2.34(a)(1)(iv) and 2.56; TMEP §904.

Therefore, applicant must satisfy one of the following:

- (1) Submit a true and unaltered copy of the originally submitted specimen, and a statement by the person who transmitted the application to the Office that the resubmitted specimen is a true copy of the specimen that was submitted with the application. TMEP §904.02.
- (2) Submit a substitute specimen showing use of the mark for each class of goods and/or services based on use in commerce, and the following statement, verified with an affidavit or signed declaration under 37 C.F.R. §2.20: **“The substitute specimen was in use in commerce at least as early as the filing date of the application.”** 37 C.F.R. §2.59(a); TMEP §904.09. If submitting a specimen requires an amendment to the dates of use, applicant must also verify the amended dates. 37 C.F.R. §2.71(c).

Examples of specimens for goods are tags, labels, instruction manuals, containers, photographs that show the mark on the goods or packaging, or displays associated with the goods at their point of sale. TMEP §§904.04 *et seq.* Examples of specimens for services are signs, photographs, brochures, website printouts or advertisements that show the mark used in the sale or advertising of the services. TMEP §§1301.04 *et seq.*

If applicant cannot satisfy one of the above requirements, applicant may amend the Section 1(a) filing basis (use in commerce) to Section 1(b) (intent to use basis), for which no specimen is required. However, should applicant amend the basis to Section 1(b), registration cannot be granted until applicant later amends the application back to use in commerce by filing an acceptable allegation of use with a proper specimen. 15 U.S.C. §1051(c); 37 C.F.R. §§2.76, 2.88; TMEP Chapter 1100.

In order to amend to Section 1(b), applicant must submit the following statement, verified with an affidavit or signed declaration under 37 C.F.R. §2.20: **“Applicant has had a bona fide intention to use the mark in commerce on or in connection with the goods or services listed in the application as of the filing date of the application.”** 15 U.S.C. §1051(b); 37 C.F.R. §§2.34(a)(2) and 2.35(b)(1); TMEP §806.03(c).

Pending a proper response, registration is refused because applicant has not provided evidence of use in commerce of the applied-for mark. 15 U.S.C. §§1051 and 1127; 37 C.F.R. §§2.34(a)(1)(iv) and 2.56; TMEP §904.

Properly Worded Declaration

The following is a sample declaration under 37 C.F.R. §2.20:

The undersigned being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements and the like may jeopardize the validity of the application or document or any registration resulting there from, declares all statements made of his/her own knowledge are true; and all

statements made on information and belief are believed to be true.

(Signature)

(Print or Type Name and Position)

(Date)

Claim of Ownership

If applicant is the owner of U.S. Registration Nos. 1217317, 1473925 and 1527809, then applicant must submit a claim of ownership. 37 C.F.R. §2.36; TMEP §812. The following standard format is suggested:

Applicant is the owner of U.S. Registration Nos. 1217317, 1473925 and 1527809.

Requirement for Additional Information

Applicant must specify whether “MIYANO” has any significance in applicant’s trade or industry, any geographical significance, any meaning in a foreign language, or identifies any particular living individual. 37 C.F.R. §2.61(b).

If applicant has questions about its application or needs assistance in responding to this Office action, please telephone the assigned trademark examining attorney directly at the number below.

/Emily Chuo/

Trademark Examining Attorney

Law Office 101

U.S. Patent & Trademark Office

Phone: 571.272.1728

Emily.Chuo@uspto.gov

RESPOND TO THIS ACTION: If there are any questions about the Office action, please contact the assigned examining attorney. A response to this Office Action should be filed using the Office’s Response to Office action form available at <http://www.uspto.gov/teas/eTEASpageD.htm>. If notification of this Office action was received via e-mail, no response

using this form may be filed for 72 hours after receipt of the notification. **Do not attempt to respond by e-mail as the USPTO does not accept e-mailed responses.**

If responding by paper mail, please include the following information: the application serial number, the mark, the filing date and the name, title/position, telephone number and e-mail address of the person signing the response. Please use the following address: Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451.

STATUS CHECK: Check the status of the application at least once every six months from the initial filing date using the USPTO Trademark Applications and Registrations Retrieval (TARR) online system at <http://tarr.uspto.gov>. When conducting an online status check, print and maintain a copy of the complete TARR screen. If the status of your application has not changed for more than six months, please contact the assigned examining attorney.

To: Miyano Machinery USA Inc. (gkobayashi@masudafunai.com)
Subject: TRADEMARK APPLICATION NO. 77176918 - M MIYANO - 2260-2010
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Sent As: ECOM101@USPTO.GOV
Attachments:

IMPORTANT NOTICE
USPTO OFFICE ACTION HAS ISSUED ON 8/27/2007 FOR
APPLICATION SERIAL NO. 77176918

Please follow the instructions below to continue the prosecution of your application:

VIEW OFFICE ACTION: Click on this link
http://portal.uspto.gov/external/portal/tow?DDA=Y&serial_number=77176918&doc_type=PAT&mail_date=20070827
(or copy and paste this URL into the address field of your browser), or visit <http://portal.uspto.gov/external/portal/tow>
and enter the application serial number to access the Office action.

PLEASE NOTE: The Office action may not be immediately available but will be viewable within 24 hours of this notification.

RESPONSE MAY BE REQUIRED: You should carefully review the Office action to determine (1) if a response is required; (2) how to respond; and (3) the applicable response time period. Your response deadline will be calculated from **8/27/2007**.

Do NOT hit "Reply" to this e-mail notification, or otherwise attempt to e-mail your response, as the USPTO does NOT accept e-mailed responses. Instead, the USPTO recommends that you respond online using the Trademark Electronic Application System response form at <http://www.uspto.gov/teas/eTEASpageD.htm>.

HELP: For *technical* assistance in accessing the Office action, please e-mail TDR@uspto.gov. Please contact the assigned examining attorney with questions about the Office action.

WARNING

- 1. The USPTO will NOT send a separate e-mail with the Office action attached.**
- 2. Failure to file any required response by the applicable deadline will result in the ABANDONMENT of your application.**